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10 UNITED STATES DISTRICT COURT  
11 DISTRICT OF NEVADA

12 GERALD ARMSTRONG,

CASE NO. CV-N-97-00670 ECR (RAM)

13 Plaintiff.

14 vs.

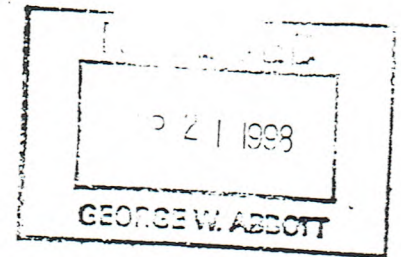
**MOTION TO DISMISS COMPLAINT FOR  
LACK OF SUBJECT MATTER  
JURISDICTION; LACK OF PERSONAL  
JURISDICTION; IMPROPER VENUE;  
AND BECAUSE PLAINTIFF IS A  
FUGITIVE FROM JUSTICE**

15 DAVID MISCAVIGE and CATHY  
16 NORMAN, individuals; CHURCH OF  
SCIENTOLOGY INTERNATIONAL, a  
17 California corporation; the RELIGIOUS  
TECHNOLOGY CENTER, a California  
18 corporation; the SEA ORGANIZATION,  
a California based unincorporated entity;  
19 and the CHURCH OF SCIENTOLOGY  
OF TEXAS, a Texas corporation,

20  
21 Defendants.  
22 \_\_\_\_\_/

23 COMES NOW Defendant Religious Technology Center and moves this Court for its Order  
24 dismissing the Complaint in the above-captioned action pursuant to Federal Rule of Civil Procedure 12  
25 (b)(1) and (2). This motion is based upon the fact that :

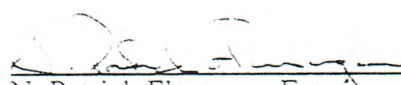
26 Plaintiff failed to allege adequately the basis for diversity jurisdiction because he alleged merely that  
27 he was "a resident of Nevada at the time of filing this complaint." (Compl. ¶ 5.), and an allegation of  
28 residency alone is insufficient to establish the citizenship required to invoke diversity jurisdiction pursuant



1 to 28 U.S.C. § 1332; plaintiff cannot cure the defect by repleading because at the time of filing the  
2 complaint, he had not established a domicile in Nevada, but rather was living in Canada as a fugitive from  
3 a jail sentence and fine for contempt of court, and a bench warrant for in his arrest, both issued by the  
4 Superior Court of California for Marin County. At the time that he fled California for Canada, plaintiff was  
5 a permanent resident and domiciliary of California; plaintiff failed to allege any facts to demonstrate that  
6 the Court has personal jurisdiction over Defendant RTC; there is no basis for the Court to assert personal  
7 jurisdiction over Defendant RTC because there are no contacts between Defendant and the State of Nevada;  
8 venue in the court is improper under 28 U.S.C. § 1391(a); plaintiff should be precluded from litigating this  
9 action because he is fugitive from justice.

10 This motion is based upon the Memorandum of Points and Authorities attached hereto; the  
11 Declaration of Warren McShane; the pleadings, records and files in this action; and upon such further  
12 evidence and argument as may be presented at the hearing on this motion.

13 DATED this 20<sup>th</sup> day of April, 1998

  
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